

22-2001-BWD

MOTION UNDER 28 U.S.C. § 2255 TO VACATE, SET ASIDE, OR CORRECT
SENTENCE BY A PERSON IN FEDERAL CUSTODY

| | | | |
|-------------------------------------------------------------------------|--|---------------------------------------------|--|
| United States District Court | | District Southern District of Illinois | |
| Name (under which you were convicted): Donvie Sadan Eddington SR | | Docket or Case No.: 3:21-CR-30006-DWD | |
| Place of Confinement: FCI Ray Brook P.O. Box 900 Ray Brook, NY 12977 | | Prisoner No.: 46394-044 | |
| UNITED STATES OF AMERICA | | Movant (include name under which convicted) | |
| V. | | Donvie Sadan Eddington SR | |

MOTION

1. (a) Name and location of court which entered the judgment of conviction you are challenging:
United States District Court, Southern District of Illinois

(b) Criminal docket or case number (if you know): Criminal No: 3:21-CR-30006-DWD

2. (a) Date of the judgment of conviction (if you know): August 11, 2021

(b) Date of sentencing: August 11, 2021

3. Length of sentence: 83 months

4. Nature of crime (all counts):

Count 1: Felon in Possession of a Firearm

5. (a) What was your plea? (Check one)

(1) Not guilty ☐

(2) Guilty ☒

(3) Nolo contendere (no contest) ☐

(b) If you entered a guilty plea to one count or indictment, and a not guilty plea to another count or what did you plead guilty to and what did you plead not guilty to?

Plea of guilt to Count 1, Felon in Possession of a Firearm

6. If you went to trial, what kind of trial did you have? (Check one)

Jury ☐

Judge only ☐

7. Did you testify at a pretrial hearing, trial, or post-trial hearing?

Yes ☐

No ☒

8. Did you appeal from the judgment of conviction?

Yes ☐

No ☒

9. If you did appeal, answer the following:

- (a) Name of court: None Applicable
- (b) Docket or case number (if you know): None Applicable
- (c) Result: None Applicable
- (d) Date of result (if you know): None Applicable
- (e) Citation to the case (if you know): None Applicable
- (f) Grounds raised: None Applicable

(g) Did you file a petition for certiorari in the United States Supreme Court? Yes ☐ No ☒

If "Yes," answer the following:

- (1) Docket or case number (if you know): None Applicable
- (2) Result: None Applicable
- (3) Date of result (if you know): None Applicable
- (4) Citation to the case (if you know): None Applicable
- (5) Grounds raised: None Applicable

10. Other than the direct appeals listed above, have you previously filed any other motions, petitions, or applications, concerning this judgment of conviction in any court?

Yes ☐ No ☒

11. If your answer to Question 10 was "Yes," give the following information:

- (a) (1) Name of court: None Applicable
- (2) Docket or case number (if you know): None Applicable
- (3) Date of filing (if you know): None Applicable
- (4) Nature of the proceeding: None Applicable
- (5) Grounds raised: None Applicable

(6) Did you receive a hearing where evidence was given on your motion, petition, or application?

Yes ☐ No ☒

(7) Result: None Applicable

(8) Date of result (if you know): None Applicable

(b) If you filed any second motion, petition, or application, give the same information:

(1) Name of court: None Applicable

(2) Docket of case number (if you know): None Applicable

(3) Date of filing (if you know): None Applicable

(4) Nature of the proceeding: None Applicable

(5) Grounds raised: None Applicable

(6) Did you receive a hearing where evidence was given on your motion, petition, or application?

Yes ☐ No ☒

(7) Result: None Applicable

(8) Date of result (if you know): None Applicable

(c) Did you appeal to a federal appellate court having jurisdiction over the action taken on your motion, petition, or application?

(1) First petition: Yes ☐ No ☒

(2) Second petition: Yes ☐ No ☒

(d) If you did not appeal from the action on any motion, petition, or application, explain briefly why you did not:

None Applicable

12. For this motion, state every ground on which you claim that you are being held in violation of the Constitution, laws, or treaties of the United States. Attach additional pages if you have more than four grounds. State the facts supporting each ground.

GROUND ONE: Failed to File Notice of Appeal

(a) Supporting facts (Do not argue or cite law. Just state the specific facts that support your claim.):

Roe v Flores-Ortega (SCT Holding)

(b) Direct Appeal of Ground One:

(1) If you appealed from the judgment of conviction, did you raise this issue?

Yes ☐ No ☒

(2) If you did not raise this issue in your direct appeal, explain why:

None Applicable

(c) Post-Conviction Proceedings:

(1) Did you raise this issue in any post-conviction motion, petition, or application?

Yes ☐ No ☒

(2) If you answer to Question (c)(1) is "Yes," state:

Type of motion or petition: None Applicable

Name and location of the court where the motion or petition was filed:

None Applicable

Docket or case number (if you know): None Applicable

Date of the court's decision: None Applicable

Result (attach a copy of the court's opinion or order, if available):
None Applicable

(3) Did you receive a hearing on your motion, petition, or application?

Yes ☐ No ☒

(4) Did you appeal from the denial of your motion, petition, or application?

Yes ☐ No ☒

(5) If your answer to Question (c)(4) is "Yes," did you raise the issue in the appeal?

Yes ☐ No ☒

(6) If your answer to Question (c)(4) is "Yes," state:

Name and location of the court where the appeal was filed:

None Applicable

Docket or case number (if you know): None Applicable

Date of the court's decision: None Applicable

Result (attach a copy of the court's opinion or order, if available):

None Applicable

(7) If your answer to Question (c)(4) or Question (c)(5) is "No," explain why you did not appeal or raise this issue: None Applicable

GROUND TWO: Ineffective Assistance of Counsel due to Failure of Valid
Objection to Base Offense Level Under USSG § 2K2.1(a)(2)

(a) Supporting facts (Do not argue or cite law. Just state the specific facts that support your claim.):

(b) Direct Appeal of Ground Two:

(1) If you appealed from the judgment of conviction, did you raise this issue?

Yes ☐

No ☒

(2) If you did not raise this issue in your direct appeal, explain why:

None Applicable

(c) Post-Conviction Proceedings:

(1) Did you raise this issue in any post-conviction motion, petition, or application?

Yes ☐

No ☒

(2) If you answer to Question (c)(1) is "Yes," state:

Type of motion or petition: None Applicable

Name and location of the court where the motion or petition was filed:

None Applicable

Docket or case number (if you know): None Applicable

Date of the court's decision: None Applicable

Result (attach a copy of the court's opinion or order, if available):

None Applicable

(3) Did you receive a hearing on your motion, petition, or application?

Yes ☐

No ☒

(4) Did you appeal from the denial of your motion, petition, or application?

Yes ☐

No ☒

(5) If your answer to Question (c)(4) is "Yes," did you raise the issue in the appeal?

Yes ☐

No ☒

(6) If your answer to Question (c)(4) is "Yes," state:

Name and location of the court where the appeal was filed:

None Applicable

Docket or case number (if you know): None Applicable

Date of the court's decision: None Applicable

Result (attach a copy of the court's opinion or order, if available):

None Applicable

(7) If your answer to Question (c)(4) or Question (c)(5) is "No," explain why you did not appeal or raise this issue: None Applicable

GROUND THREE: Ineffective Assistance of Counsel due to Failure in
Objection to Criminal History Calculation

(a) Supporting facts (Do not argue or cite law. Just state the specific facts that support your claim.):

(b) Direct Appeal of Ground Three:

(1) If you appealed from the judgment of conviction, did you raise this issue?

Yes ☐ No ☒

(2) If you did not raise this issue in your direct appeal, explain why:

None Applicable

(c) Post-Conviction Proceedings:

(1) Did you raise this issue in any post-conviction motion, petition, or application?

Yes ☐ No ☒

(2) If you answer to Question (c)(1) is "Yes," state:

Type of motion or petition: None Applicable

Name and location of the court where the motion or petition was filed:

None Applicable

Docket or case number (if you know): None Applicable

Date of the court's decision: None Applicable

Result (attach a copy of the court's opinion or order, if available):

None Applicable

(3) Did you receive a hearing on your motion, petition, or application?

Yes ☐ No ☒

(4) Did you appeal from the denial of your motion, petition, or application?

Yes ☐ No ☒

(5) If your answer to Question (c)(4) is "Yes," did you raise the issue in the appeal?

Yes ☐ No ☒

(6) If your answer to Question (c)(4) is "Yes," state:

Name and location of the court where the appeal was filed:

None Applicable

Docket or case number (if you know): None Applicable

Date of the court's decision: None Applicable

Result (attach a copy of the court's opinion or order, if available):

None Applicable

(7) If your answer to Question (c)(4) or Question (c)(5) is "No," explain why you did not appeal or raise this issue: None Applicable

GROUND FOUR: None Applicable

(a) Supporting facts (Do not argue or cite law. Just state the specific facts that support your claim.):

None Applicable

(b) Direct Appeal of Ground Four:

(1) If you appealed from the judgment of conviction, did you raise this issue?

Yes ☐

No ☒

(2) If you did not raise this issue in your direct appeal, explain why:

None Applicable

(c) Post-Conviction Proceedings:

(1) Did you raise this issue in any post-conviction motion, petition, or application?

Yes ☐

No ☒

(2) If you answer to Question (c)(1) is "Yes," state:

Type of motion or petition: None Applicable

Name and location of the court where the motion or petition was filed:

None Applicable

Docket or case number (if you know): None Applicable

Date of the court's decision: None Applicable

Result (attach a copy of the court's opinion or order, if available):

None Applicable

(3) Did you receive a hearing on your motion, petition, or application?

Yes ☐ No ☒

(4) Did you appeal from the denial of your motion, petition, or application?

Yes ☐ No ☒

(5) If your answer to Question (c)(4) is "Yes," did you raise the issue in the appeal?

Yes ☐ No ☒

(6) If your answer to Question (c)(4) is "Yes," state:

Name and location of the court where the appeal was filed:

None Applicable

Docket or case number (if you know): None Applicable

Date of the court's decision: None Applicable

Result (attach a copy of the court's opinion or order, if available):

None Applicable

(7) If your answer to Question (c)(4) or Question (c)(5) is "No," explain why you did not appeal or raise this issue: None Applicable

13. Is there any ground in this motion that you have not previously presented in some federal court? If so, which ground or grounds have not been presented, and state your reasons for not presenting them:

None Applicable

14. Do you have any motion, petition, or appeal now pending (filed and not decided yet) in any court for the you are challenging? Yes ☐ No ☒

If "Yes," state the name and location of the court, the docket or case number, the type of proceeding, and the issues raised.

None Applicable

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15. Give the name and address, if known, of each attorney who represented you in the following stages of the you are challenging:
- (a) At the preliminary hearing: David L. Brengle, Federal Public Defender
East St. Louis, 650 Missouri Avenue East St. Louis, IL 622d
- (b) At the arraignment and plea:
David L. Brengle
- (c) At the trial:
None Applicable
- (d) At sentencing:
David L. Brengle
- (e) On appeal:
None Applicable
- (f) In any post-conviction proceeding:
None Applicable
- (g) On appeal from any ruling against you in a post-conviction proceeding:
None Applicable
16. Were you sentenced on more than one court of an indictment, or on more than one indictment, in the same court and at the same time? Yes ☐ No ☒
17. Do you have any future sentence to serve after you complete the sentence for the judgment that you are challenging? Yes ☐ No ☒
- (a) If so, give name and location of court that imposed the other sentence you will serve in the future:

- (b) Give the date the other sentence was imposed: None Applicable
- (c) Give the length of the other sentence: None Applicable
- (d) Have you filed, or do you plan to file, any motion, petition, or application that challenges the judgment or sentence to be served in the future? Yes ☐ No ☒
18. TIMELINESS OF MOTION: If your judgment of conviction became final over one year ago, you must explain why the one-year statute of limitations as contained in 28 U.S.C. § 2255 does not bar your motion.*
- _____

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Therefore, movant asks that the Court grant the following relief: Re-calculate movant's Base Offense Level Under USSG § 2K2.1(a)(2) and re-sentence movant accordingly.

or any other relief to which movant may be entitled.

Signature of Attorney (if any)

I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct and that this Motion under 28 U.S.C. § 2255 was placed in the prison mailing system on August 23, 2022
(month, date, year)

Executed (signed) on August 23, 2022 (date)

Donnie Edgington
Signature of Movant

If the person signing is not movant, state relationship to movant and explain why movant is not signing this motion.

⇄46394-044⇄

Donvie Eddington Sr.
Reg. No. 46394-044
Post P.O.Box 900
RAY Brook, NY 12977
United States

Case 3:22-cv-02001-DWD

Document 1

Filed 08/29/22

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⇄46394-044⇄

Clerk Of Court
U.S District Court
750 Missouri AVE
E Saint Louis, IL 62201
United States

FCI RAY BROOK
P.O. BOX 300 RAY BROOK, NEW YORK

DATE: 8/24/22

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AUG 29 2022

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